



# Utah Labor Commission FY2007 Annual Report





**Utah Labor Commission**  
**FY 2007**  
**Annual Report**



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**[www.laborcommission.utah.gov](http://www.laborcommission.utah.gov)**

## Governor Jon Huntsman, Jr.



November 2007



It is my pleasure to present the FY07 Annual Report for the Utah Labor Commission. The Utah Labor Commission serves the people of our great state by enforcing laws and promoting safety and fairness in Utah's workplaces for employees and employers. I would like to express my sincere appreciation to all Labor Commission employees for their contributions in public service. Their efforts have helped make Utah a better place in which to live and work.

Sincerely,

Jon M. Huntsman, Jr.  
Governor

[www.laborcommission.utah.gov](http://www.laborcommission.utah.gov)

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## *OUR MISSION*

### ACHIEVING SAFETY AND FAIRNESS IN UTAH'S WORKPLACES

## *OUR VISION*

The VISION of the Utah Labor Commission is....

- ❖ A Utah where employment and housing is open to all according to individual merit, free from invidious discrimination.
- ❖ A Utah where workers are paid wages they have earned.
- ❖ A Utah where workers receive prompt payment of medical and disability benefits for work-related injuries and illnesses.
- ❖ A Utah where, after a day's work, workers return safe and sound to their loved ones.
- ❖ And, above all, a Utah where labor is respected for its inherent value and as a keystone of the state's prosperity.



## A Message from the Commissioner Sherrie Hayashi



November 2007



I thank Governor Huntsman and members of the legislature for their commitment and support of our efforts to provide services to the residents of the state of Utah and welcome the opportunity to provide this report. I hope you are encouraged to learn more about the Labor Commission through its contents.

Governor Huntsman's directive is focusing on the basic foundations of society. Building and maintaining a strong economy is among these foundations and critical to Utah's future. Utah is experiencing impressive economic growth. For our future, it is essential we explore new avenues which will improve the competitive environment and foster a healthy economy. Providing a safe, fair, work environment for families and a level playing field for all employers will be a determining factor in the consideration of bringing new business to Utah, while ensuring the well being of existing companies. The Utah Labor Commission is proud to play a pivotal role in accomplishing this.

Our mission is achieving safety and fairness in Utah's workplaces and we have some of the most knowledgeable and experienced employees in the state. I applaud their efforts and express appreciation for their dedicated commitment and excellence. I believe their commitment is reflected in the accomplishments outlined on the following pages. This report is intended to convey an overview of the Labor Commission, our program priorities, a brief budget summary, and other pertinent information.

As we work together to incorporate changes initiated in the past year, we conclude that the future of the working environment in Utah is very positive. We will continue taking innovative steps to better serve the people of the state.

We look forward to an environment of continuing partnerships with the public and private sector in assuring the safety and fairness of Utah's workplaces.

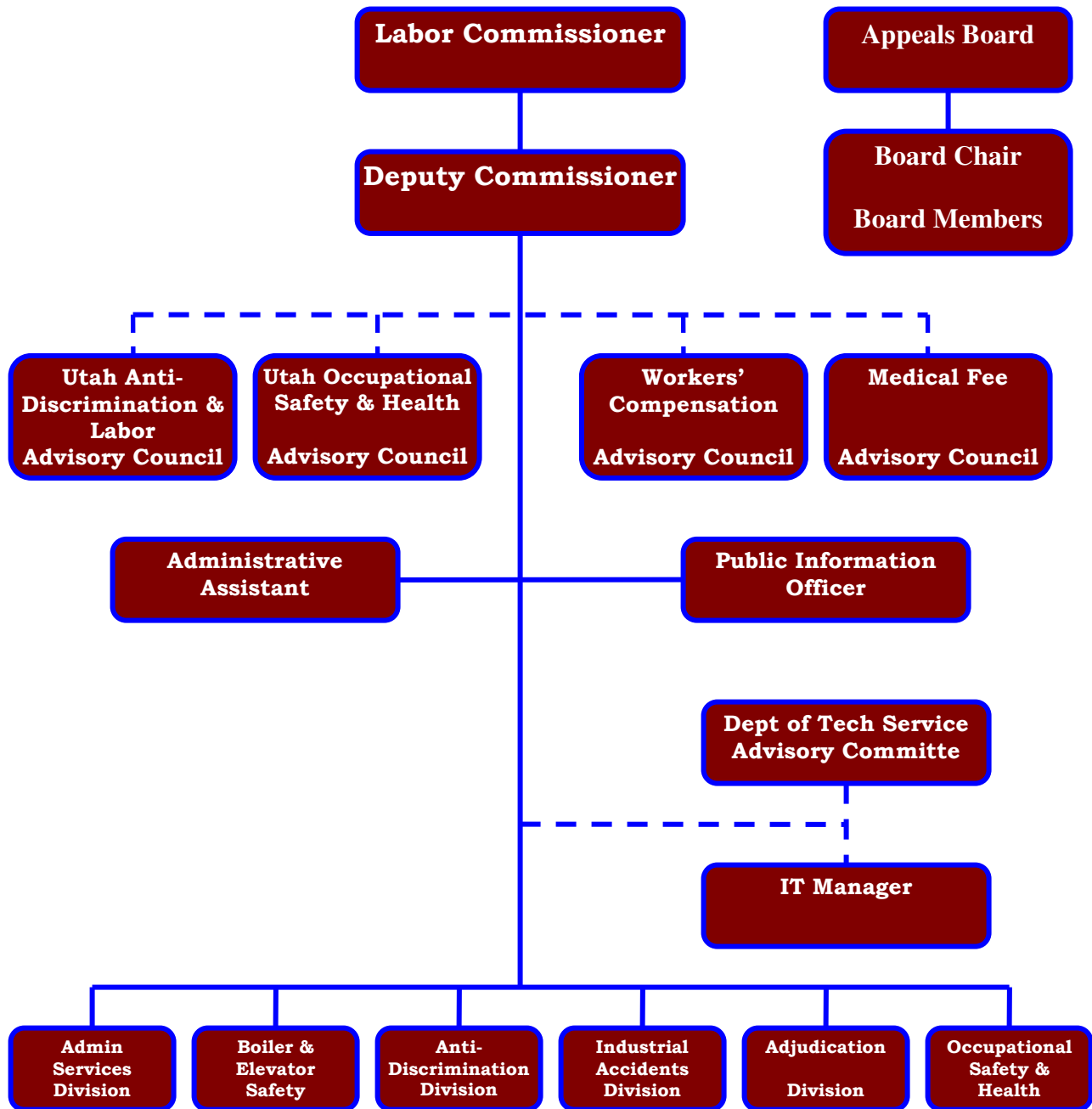
Respectfully,

A handwritten signature in black ink, appearing to read "Sherrie Hayashi". The signature is fluid and cursive, with a large initial "S" and "H".

Sherrie Hayashi  
Commissioner



# Utah Labor Commission



Labor Commission  
Organization Chart  
8.50 Merit Exempt Positions  
115.5 FTEs appropriated

# Utah Labor Commission

## *Who we are – What we do*

The Utah Labor Commission is the regulatory agency central to preserving the balance established by the legislature for protecting the health, safety, and economic well-being of employees and employers. It is a multi-division state agency directed by a Commissioner who is appointed by the Governor. The Commissioner oversees the various functions of the divisions within the Commission.

### Labor Commission Divisions

- ❖ Administration
- ❖ Adjudication
- ❖ Antidiscrimination
- ❖ Boiler & Elevator Safety
- ❖ Industrial Accidents
- ❖ Utah Occupational Safety & Health

Although not Divisions of the Commission, Information Technology (DTS) and the Legal Unit both provide essential services for the Commission and are contained within this report.

Following is a summary of services provided by the divisions:

#### Adjudication Division: (801) 530-6800

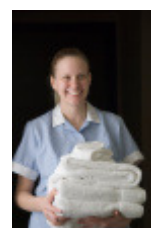
Conducts formal administrative hearings on:

- ❖ Workers' compensation disputes.
- ❖ Workers' compensation employer penalties.
- ❖ UALD employment discrimination determinations.
- ❖ UOSH penalty citations.

Administrative Law Judges hold hearings and issue decisions on these disputes.

#### Division of Boiler & Elevator Safety: (801) 530-6850

The Division inspects boilers, pressure vessels, and elevators for safe construction and operation and conducts miner certification testing via our satellite office in Price, while applying national engineering and inspection standards. The Division of Boiler & Elevator Safety also participates in developing those standards, which are listed in our Compliance Manuals and can be obtained on our website at: [http://laborcommission.utah.gov/Safety\\_Division/safety\\_division.htm](http://laborcommission.utah.gov/Safety_Division/safety_division.htm) or by calling our office at (801) 530-6850.





## **Antidiscrimination & Labor Division (UALD): (801) 530-6801**

**Employment Discrimination:** We enforce Equal Employment Opportunity laws, which prohibit discrimination in employment based on *race, color, sex, national origin, disability, age (over 40), or religion*.

**Housing Discrimination:** Under the Utah and Federal Fair Housing Acts, individuals have the right to rent, purchase, or finance housing without discrimination based on *race, color, national origin, religion, sex, familial status (families with children under 18), disability, or source of income (state, local, or federal government assistance, including housing assistance)*.

**Wage Claim Unit:** We enforce Utah's wage laws and provide assistance with:

- ❖ Wage claims.
- ❖ Employment of minors.
- ❖ Utah's Minimum Wage.
- ❖ Payday requirements.
- ❖ Wages/severance upon termination.
- ❖ Legal payroll deductions including employee uniforms.
- ❖ Vacation, sick leave and holiday pay policies.
- ❖ Retaliation against anyone for asserting their rights protected under these laws.



UALD provides free mediation services for complaints filed with our office.

## **Industrial Accidents Division: (801) 530-6800**

The Division helps injured workers receive timely benefits and resolves disputes under the state's Workers' Compensation Act by:

### **Compliance:**

- ❖ Enforcing the requirement that employers have workers' compensation coverage.

### **Claims:**

- ❖ Providing assistance to injured workers, employers, medical providers and other parties in the workers' compensation system.
- ❖ Mediating disputes between injured workers, employers and insurance carriers.

## **Utah Occupational Safety & Health (UOSH): (801) 530-6901**

**Private Sector OSHA Consultation:** We offer workplace safety and health services:



- ❖ Surveys to identify workplace hazards.
- ❖ Safety and health program review.
- ❖ Industrial hygiene sampling.
- ❖ Safety and health training.
- ❖ Safety and health information.
- ❖ Safety and health excellence awards

These consultation services are offered without citations or penalties at no cost to private sector employers with 250 Utah employees or less. They are confidential and offered only at the employer's request. Call us at (801) 530-6855 for a FREE OSHA Consultation.

**Public Sector Consultation:** Consultations are also available for public sector employers. Call (801) 530-6860 for details.

**Compliance:** UOSH Compliance inspects workplaces to assure that employers are:

- ❖ Furnishing places of employment free from hazards which can cause serious physical harm to workers.
- ❖ Complying with safety and health standards and regulations.



Compliance Assistance Specialists provide information regarding OSHA standards and can be available for seminars, workshops, and speaking events. Contact Compliance Assistance at (801) 530-6860 for details.

### Commissioner Advisory Boards

- ❖ The Workers' Compensation Advisory Council
- ❖ The Utah Antidiscrimination Advisory Council

These committees, made up of individuals representing employees, employers, and the public at large, are appointed by the Labor Commissioner for specific terms. They advise the Commission on issues regarding legislation, rules, and the enforcement of statutes administered by the Commission.

### Statutes Administered by the Commission

- ❖ Utah Labor Laws, Title 34
- ❖ Utah Antidiscrimination Act, Chapter 5, Title 34A
- ❖ Workers' Compensation Act, Chapter 2, Title 34A
- ❖ Utah Occupational Disease Act, Chapter 3, Title 34A
- ❖ Utah Boiler Inspection Law, Chapter 7, Title 34A
- ❖ Utah Occupational Safety & Health Act, Chapter 6, Title 34A
- ❖ Utah Injured Worker Reemployment Act, Chapter 8, Title 34A
- ❖ Coal Mining Laws, Chapter 2, Title 40
- ❖ Utah Fair Housing Act, Chapter 21, Title 57
- ❖ Administrative Rules, R600 – R616





# Utah Labor Commission

## Budget Summary – FY 2007

### REVENUES:

General Funds	5,861,100.00
General Funds, Restricted (WPS)	760,578.00
Uninsured Employers Fund	1,104,851.00
Mine Certification	51,564.00
EEOC	418,710.00
HUD (Fair Housing)	213,986.00
Bureau of Labor Statistics	64,629.00
OSHA 23g (compliance)	1,300,000.00
OSHA 21d (consultation)	463,695.00

<b>TOTAL REVENUES</b>	<b><u>10,239,113.00</u></b>
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### EXPENDITURES:

Administrative Services	1,810,147.00
Industrial Accidents	1,226,210.00
Appeals Board	15,412.00
Adjudication	1,025,436.00
Safety	1,119,027.00
Workplace Safety	647,278.00
Antidiscrimination/Labor	1,369,319.00
UOSH	2,889,191.00
HMW Bldg. Operations & Maintenance	137,092.00

<b>TOTAL EXPENDITURES</b>	<b><u>10,239,113.00</u></b>
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### EXPENDITURES BY CATEGORY:

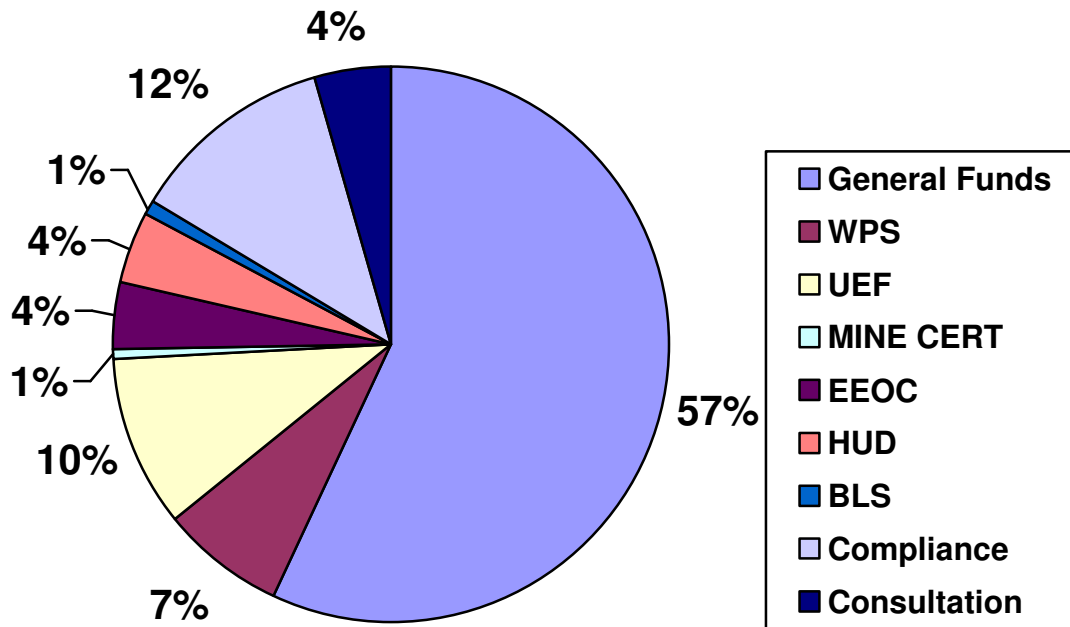
Salaries & Benefits	7,406,348.00
Travel Costs	166,976.00
Current Expenses	1,149,275.00
Data Processing Current Expenses	1,077,482.00
Pass Through Funds	439,032.00

<b>TOTAL EXPENDITURES BY CATEGORY</b>	<b><u>10,239,113.00</u></b>
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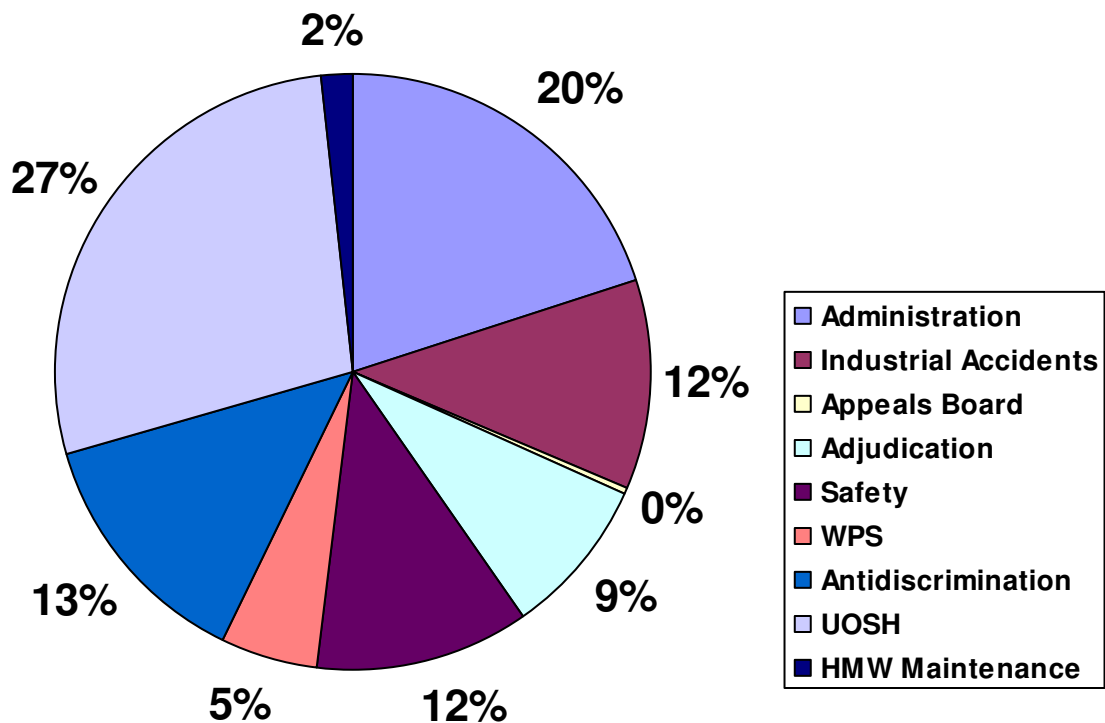
# Budget Summary - Divisions

## FY 2007

REVENUES (percent of total)



EXPENDITURES (percent of total)





# Adjudication Division

**Richard LaJeunesse, Director and  
Presiding Law Judge**

**(801) 530-7928**

**[rlajeunesse@utah.gov](mailto:rlajeunesse@utah.gov)**

**Mission:** To conduct all formal proceedings of the Utah Labor Commission concerning all aspects of employment-related law in a fair, efficient, and effective manner.



## OVERVIEW

The Division conducts all formal administrative hearings of the Commission in the areas of workers compensation, employment discrimination, Utah Occupational Safety and Health citations, and workers' compensation insurance compliance actions. The Division has six administrative law judges (ALJ's), as well as a Division Director who also serves as the Chief Administrative Law Judge.

## FY07 HIGHLIGHTS



During the 2007 fiscal year, the Division completed implementation of the Adjudication Case Management computer system (SPUD) which now includes a program to maintain the scheduling portion of case management, and the actual case management component of the death cases within the Adjudication system.

The Division now permits workers' compensation death benefits to be paid directly to the surviving parent or legal guardian of a deceased worker's minor children. In the past, these funds were placed in trust accounts under Division control, and Division approval was required for disbursement. This created an unnecessary obstacle to use of the funds for the benefit of the deceased worker's children.

A satellite Adjudication office has been opened in Parowan, Utah, and is staffed with one ALJ and one administrative support person. This office serves the southern Utah area.

<b>2007 Adjudication Case Activity</b>	
<b>Open case load at the end of fiscal year 2007</b>	<b>1079</b>
<b>Combined new cases filed</b>	<b>1520</b>
<b>Evidentiary hearings conducted</b>	<b>357</b>
<b>Hearings on motions or pre-hearing conferences conducted</b>	<b>97</b>
<b>Decisions issued on the merits</b>	<b>425</b>
<b>Cases resolved/closed on procedural motions</b>	<b>518</b>
<b>Interim orders issued</b>	<b>203</b>
<b>Non-dispositive orders issued</b>	<b>670</b>
<b>Medical panel referrals</b>	<b>217</b>
<b>Orders issued approving settlement agreements on pending cases</b>	<b>579</b>
<b>Orders issued approving settlement case pre-litigation</b>	<b>333</b>
<b>Compensation agreements approved</b>	<b>65</b>
<b>Third party settlements approved</b>	<b>55</b>
<b>Lump sum agreements approved</b>	<b>205</b>

# Administration Division

C. Gordon Linnett, Director



(801) 530-6816 [glinnett@utah.gov](mailto:glinnett@utah.gov)

**MISSION:** To provide support and assist the divisions and employees of the Utah Labor Commission to serve the people of the state.

## OVERVIEW

The Administration Division is primarily a staff service division and its main function is to oversee the Commission's FY07 \$11.2 million budget and to provide support to all other divisions and staff. The Division provides support services in budgeting, accounting, personnel, payroll, travel, purchasing, and information technology. Combining staff functions under one division eliminates the need to duplicate the services in each division.

## FY07 HIGHLIGHTS

### Balanced Scorecard

Governor Jon Huntsman implemented the Balanced Scorecard during FY07 for all state agencies. This has provided the Commission the opportunity to revise its action plan and evaluate where improvement is needed. The Commission's plan identifies our challenge and the objectives we will use to meet it:

**Our Challenge:** Focus our resources in meeting the needs of employers and employees today, while building a foundation for greater workplace safety and fairness tomorrow.

### **Our Objectives:**

#### **Workplace Safety and Fairness**

- ❖ Clear, effective and reasonable statutes, regulations and policies.
- ❖ A partnership with constituents to identify issue and develop standards.
- ❖ Serve as a resource for Legislative action.

#### **Competent and Dedicated Staff**

- ❖ Hire and retain talented people.
- ❖ Provide necessary training and equipment.
- ❖ Allow for professional development.

#### **Quality Constituent Service**

- ❖ Community education and outreach
- ❖ Professionalism and customer service.
- ❖ Fair, timely and correct application of laws.

#### **Efficiency**

- ❖ Measure key activities.
- ❖ Evaluate necessity.
- ❖ Technology.

#### **Financial Accountability**

- ❖ Apply state financial standards.
- ❖ Budget Management.



## Workplace Safety

**Poster Contest:** Each year, as part of the Labor Commission's outreach program, money from the Workplace Safety Account is used to sponsor a "Take Safety Seriously" poster contest to promote safety awareness for Utah's future workforce. The poster contest, in its tenth year, is open to all middle and junior high schools across Utah, both private and public. This year's winning entries were chosen from over 1,000 entries submitted by 26 different middle and junior high schools throughout Utah.

Young Ji Kim, Hillside Intermediate School, was awarded \$500 and this year's top honor as Grand Prize Winner.

**Grant Program:** This was also a very successful year for the Commission's Workplace Safety Grant Program. The grant application process has been updated to facilitate accessing the forms and application packet online. As a result, this year saw an increase in the type of projects requesting funds, as well as the number and background of applicants.

In 2007, the Workplace Safety Program received a total of 25 requests (not including three proposals for medical studies which will be evaluated separately) and granted 17 applications for a total of \$475,058.

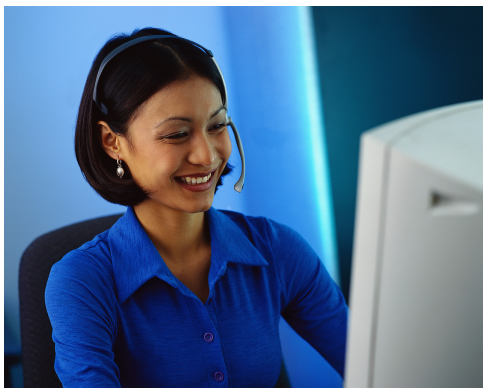
Some of the grantees receiving workplace safety funds include technical schools, such as the Ogden Weber Applied Technology College, which offers a particular focus in educating and training students who will be utilizing their skills in trade-related occupations. That particular grant will serve about 250 students and will re-certify 100 more.

Other grants funded are those placing a special focus in developing resources and scholarships which small-based employers can use to train their limited Spanish speaking workers. Such grants were awarded to the Center for Educational Programming and the Daily Dose, Inc.

## Finet – State's Accounting System

Interfacing between Finet and our Division's databases has dramatically improved efficiency with the receivable and collections processes.

## Customer Relations



In May, 2007, the Commission consolidated its reception areas into one central location. Previously the Commission was logistically divided into three separate areas, each staffed with its own receptionist. In an effort to simplify the process and make things more secure as well, the three areas were consolidated into the Customer Relations desk, and now all guests have the convenience of one central location to receive assistance upon their arrival. This will assure prompt response and access for all of our customers, and address the challenges preventing them from accessing Labor Commission services, including barriers related to a disability or limited language skills.





# Antidiscrimination and Labor Division

**Heather E. Morrison. Director**



**(801) 530-6921**     [hmorrison@utah.gov](mailto:hmorrison@utah.gov)

**MISSION :** To achieve equal employment and housing opportunity for all, and assure that Utah employees are paid the wages they have earned.

## OVERVIEW

The Division enforces equal employment and housing laws, as well as Utah's laws regarding payment of wages, employment of minors and minimum wage laws.

The Division is organized into three units: the Employment Discrimination Unit; the Fair Housing Unit; and the Wage Claim Unit. The Division also has an alternative dispute resolution program that manages a successful mediation program for all three Units. The Division has an effective education and outreach program to educate employers, employees, housing providers, tenants, realtors, bankers, and the general public about the rights and responsibilities under the various laws enforced by the Division.

## Utah Antidiscrimination and Labor Division Advisory Council

The UALD's Advisory Council is created by statute and chaired by the Labor Commissioner. The Council's 13 voting members are comprised of employers, employees, tenants, landlords and the general public. The Advisory Council meets quarterly to review and advise the Commission on the UALD's statutes, rules, procedures and other issues relating to the UALD's statutory mandates.

## ENFORCEMENT

- ❖ Utah Antidiscrimination Act (Utah Code Ann. §34A-5-101 *et seq.*)
- ❖ Utah Fair Housing Act (Utah Code Ann. §57-21-1 *et seq.*)
- ❖ Utah Employment of Minors Act (Utah Code Ann. §34-21-1 *et seq.*)
- ❖ Utah Payment of Wages Act (Utah Code Ann. §34-28-1 *et seq.*)
- ❖ Utah Minimum Wage Act (Utah Code Ann. §34-40-101 *et seq.*)
- ❖ Employment Agency Licensing Act (Utah Code Ann. §34-29-1 *et seq.*)

Through work-sharing agreements with the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development, the Division also enforces Federal employment and housing discrimination laws.

## INTERNAL EFFICIENCIES

In FY07, the Division split its Discrimination Unit into the Employment Discrimination Unit and the Fair Housing Unit. This split will allow for greater efficiencies in investigating and processing discrimination claims by having knowledgeable staff dedicated to each Unit.



## FY07 HIGHLIGHTS

### Employment Discrimination Unit:

- ❖ Closed 680 claims
- ❖ Collected \$974,480 for claimants
- ❖ Conducted 219 mediations

### Fair Housing Unit:

- ❖ Closed 63 claims
- ❖ Conducted 27 mediations resulting in settlements
- ❖ Reduced the average age of cases from 253 days in FY06 to 103 days in FY07

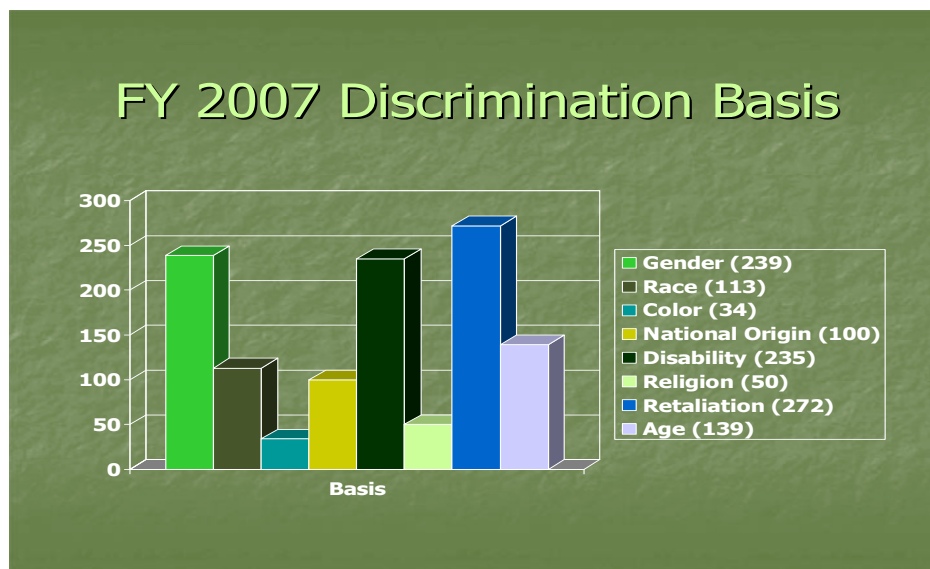


### Wage Claim Unit:

- ❖ Closed 1,451 cases
- ❖ Conducted 112 informal administrative hearings
- ❖ Collected unpaid wages and fees totaling \$777,982
- ❖ Responded to approximately 40,000 phone calls from constituents with wage and employment questions.

### Outreach and Training:

The Division has an effective outreach program to educate employers, employees, housing providers, tenants, realtors, bankers, and the general public about the rights and responsibilities under the various laws enforced by the Division. For example, the Division, in conjunction with the Utah Department of Workforce Services and the U.S. Department of Labor, produced three online training videos on discrimination and wage laws. These videos, which are accessible by the general public via the Division's website, were launched in April, 2007 and are viewed about 1,500 times per month.



# Boiler & Elevator Safety Division

**Pete C. Hackford, Director**



**(801) 530-7605**   [phackford@utah.gov](mailto:phackford@utah.gov)

**MISSION:** The Division of Boiler and Elevator Safety makes people safe by making boilers, pressure vessels and elevators safe.

## OVERVIEW

The Division is a successful example of the state and private sector working together to accomplish the task of inspecting the state's boilers, elevators and pressure vessels, thus promoting safety while supplementing operating costs. Inspections are performed by the Division's twelve Boiler/Pressure Vessel Inspectors, as well as inspectors from the private sector, deputized by the Division, who are actually employed by insurance companies that underwrite boiler and pressure vessel policies. These inspections are performed at no cost to the state, but the inspection in turn generates revenue back to the state through an inspection certificate supplied by the Division. The revenue generated from these inspection fees is comparable to expenditures for operation of the Division.

The Division assumed responsibility for the Miner Certification Program in FY07. The certification is mandated by Utah Statute and is headquartered in Eastern Utah. The duties charged to the Division are to administer five exams which are safety oriented and specific to the coal mining industry.

The Miner Certification Panel, a group of at least eight members (currently there are nine), appointed by the Commissioner of the Labor Commission, administers the certifications tests. The panel also grades sections of the test that are non-written, consults with the commission about applicant qualifications, reviews test questions for accuracy and validity, and provides technical knowledge and advice regarding the coal mining industry.

## ENFORCEMENT

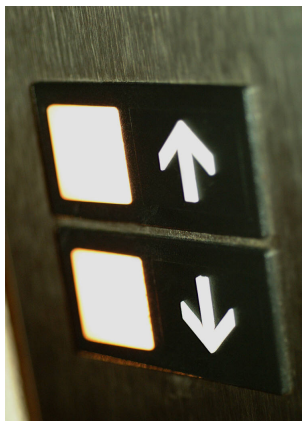
Utah Code - Title 34A Chapter 7 - (Part 1) Boilers and Pressure Vessel  
Utah Code - Title 34A-Chapter 7 - ( Part 2) Elevator and Escalator Safety Act  
Utah Code - Title 40- Chapter 2 - Coal Mines

## INTERNAL EFFICIENCIES

During FY07, the Division implemented a web-based inspection reporting program which allows the inspectors to focus more on inspections and decreases the amount of time spent writing permits. There is a virtual office installed in each inspector's vehicle, contributing to more productivity and less office time.

## FY07 HIGHLIGHTS

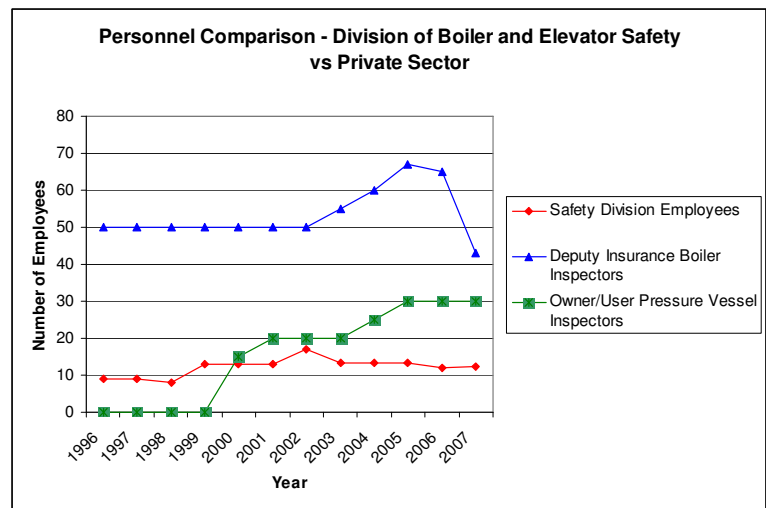
- ❖ Inspected 352 new elevators, 810 new boilers and 1,567 new pressure vessels.
- ❖ Performed over 20,000 total inspections, internal and recertification.
- ❖ Issued in excess of 11,000 operating permits.



- ❖ Administered 371 mining exams under the Miner Certification Program.
- ❖ Implemented a web based inspection reporting program significantly reducing paperwork time for inspectors.

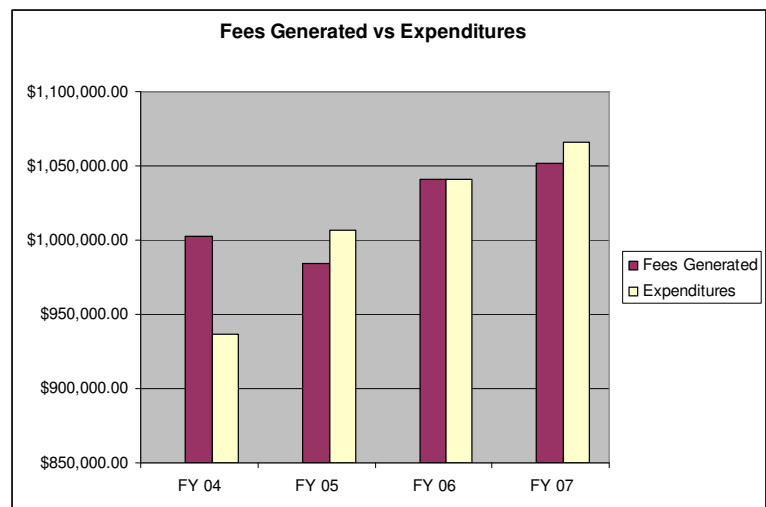
## PERSONNEL COMPARISON

This chart shows how the Division compares to the private sector when utilizing inspectors to do business. The Division performs 60% of all state required safety inspections, while employing a smaller number of personnel.



## REVENUE COMPARISON

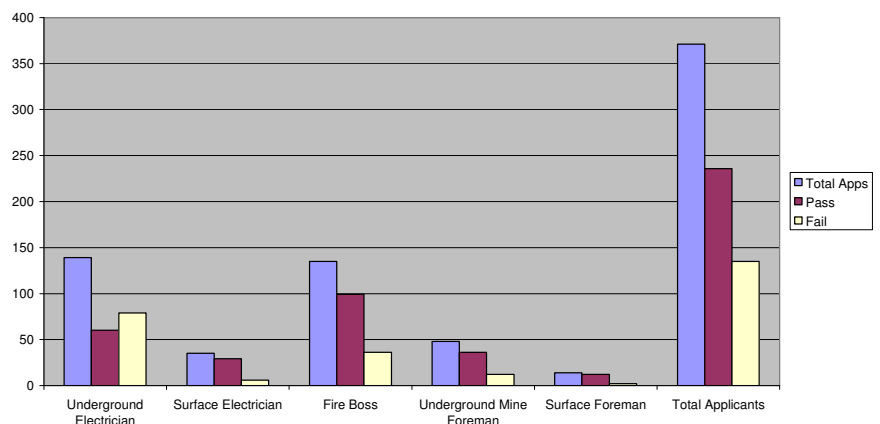
This chart shows the amount of fee revenue generated in comparison to Division expenditures.



## Miner Certification Overall Totals for FY 2007 63.6% Pass 36.4% Fail

## MINER CERTIFICATION

This chart shows only FY07 figures. FY08 chart will allow the division to monitor the trends in the examination process.





# Industrial Accidents Division

**Joyce A. Sewell, Director**



**(801) 530-6988**

**[jsewell@utah.gov](mailto:jsewell@utah.gov)**

**MISSION:** To monitor and assist in the prompt payment of compensation to injured workers and their return to the workplace.

## OVERVIEW

The Division is responsible for the administration of the Workers' Compensation Act, which has been a state program since 1917. The intent of the workers' compensation program is to provide medical care and lost wages to injured workers in exchange for employer immunity from personal injury lawsuits by their employees. The division monitors all employers in the state for compliance with the workers' compensation insurance requirement and investigates and penalizes those employers who fail to comply; provides assistance to injured workers in resolving disputed claims informally; records all injuries in the state; provides rules for claims handling; and administers the payment of benefits from two trust funds (the Uninsured Employers' Fund and the Employers' Reinsurance Fund).

## ENFORCEMENT

Workers' Compensation Act (Utah Code 34A-2 and 34A-3)

## INTERNAL EFFICIENCIES

The Division is currently developing a system to electronically receive workers' compensation claim information which will allow staff more time to work with disputed claims.

## FY07 HIGHLIGHTS

### Claims Section

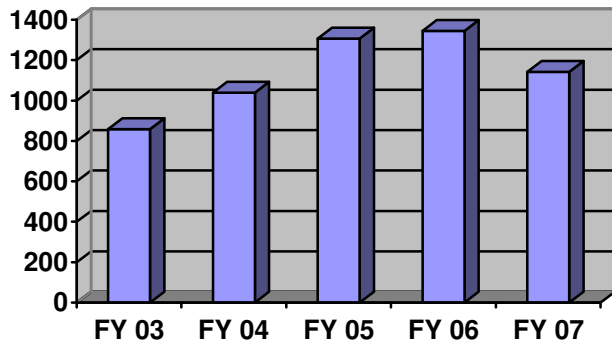
- ❖ Recorded information on over 68,000 reported injuries.
- ❖ Processed over 225,000 documents related to industrial injuries.
- ❖ Responded to approximately 36,000 information phone calls.
- ❖ Assisted over 1,200 non English speaking claimants with information and claim disputes.

### Policy Section

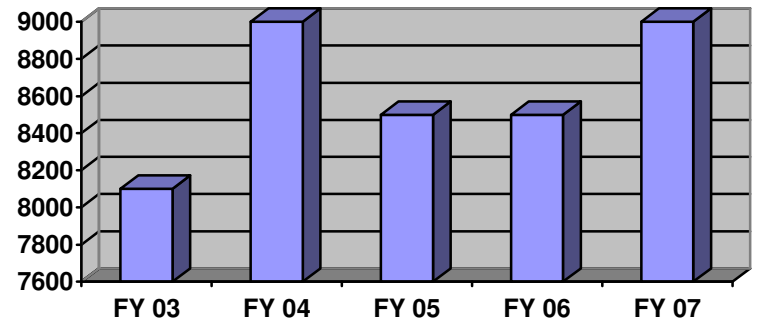
- ❖ Monitored over 77,000 employers for insurance coverage compliance.
- ❖ Investigated over 6,000 employers for non-compliance with workers' compensation, resulting in the issuing of over 1,500 penalties.
- ❖ Collected approximately \$3 million in penalties from uninsured employers to assist in the payment of uninsured claims through the Uninsured Employers' Fund.
- ❖ Brought over 2,500 employers into compliance with the workers' compensation system.
- ❖ Certified 80 of the state's largest employers for workers' compensation self-insurance.







■ Orders Issued for Insurance Noncompliance



■ Additional Employees Gaining Coverage

## Outreach

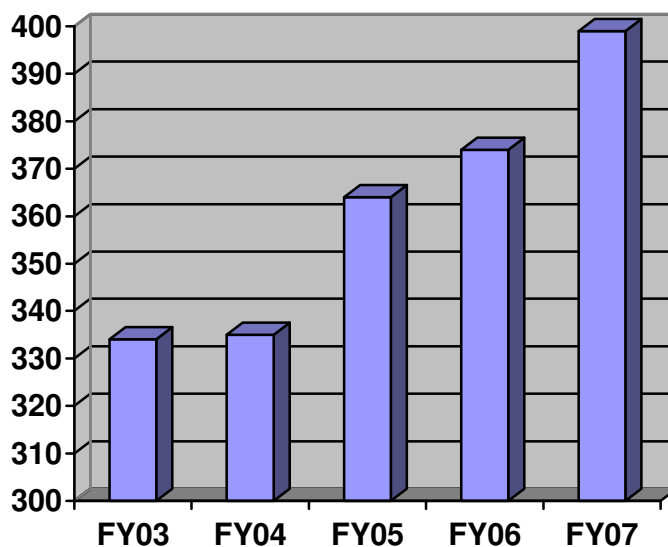
The Division is focusing on educating employers, employees and physicians about the workers' compensation program.

- ❖ Conducted 20 educational outreach visits through an outreach staff person
- ❖ Targeting 24 outreach forums for FY08
- ❖ Added Outreach information to Division's web pages
- ❖ Promotion of Outreach opportunities in Commission/Division newsletters
- ❖ On-going participation in monthly Small Business Form



## Alternate Dispute Resolution

The Alternate Dispute Resolution Program is available for the purpose of resolving cases through an informal process when possible, alleviating the need to file for a hearing. FY07 saw 399 cases solved through mediation.



■ Workers' Compensation Cases Settled Through Mediation

## Uninsured Employers' Fund

This Fund (UEF) pays the workers' compensation claims of injured workers whose employers are either insolvent or bankrupt. The UEF, by statute, must be fully funded. As of July 1, 2006, the



UEF projected liabilities of **\$14.7 million** and a balance of **\$24 million**. An actuarial study is completed annually to make recommendation on the revenue needed from premium assessments to keep the UEF fully funded. Revenues for this fund come primarily from a **.25% assessment** paid on workers' compensation premium and penalties assessed against uninsured employers.

- ❖ Approximately **75** new applications for benefits were received in FY07.
- ❖ Over **\$2 million** in medical and lost wage benefits were paid to eligible injured workers.

## Employers' Reinsurance Fund

This Fund (ERF) pays disability benefits to injured workers who were injured prior to July 1, 1994, and are permanently and totally disabled. As of July 1, 2007, there were **1,486** individuals on the ERF's permanent total disability payroll.

Expenditures from the ERF were **\$21.4 million** in FY07 with projected liabilities of **\$269.9 million** and a Fund balance of **\$94.3 million**. The Fund, which is funded entirely through premium assessments, must be fully funded by 2025. However, the current assessment on workers' compensation premiums is **7.25%** and the ERF is projected to be fully funded by 2012.

## Workers' Compensation Advisory Council

The Utah Workers' Compensation Advisory Council is created by statute and chaired by the Labor Commissioner. The Council's 10 voting members are comprised of five members from management and five members from labor. Other members include a representative of the Workers Compensation Fund, a private insurance carrier, a physician from the medical community, and the Commissioner from the Utah Insurance Department. The Utah Workers' Compensation Advisory Council was created in 1953 and is the oldest Workers' Compensation Advisory Council in the nation. The advisory body reviews and advises the Commission on all workers' compensation proposed legislation and rules.

## Medical Fee Advisory Committee

The Labor Commission sets the maximum fees that a physician may charge for procedures they perform to provide maximum medical improvement to an injured worker. The Labor Commission has appointed a Medical Fee Advisory Committee which is chaired by the Industrial Accidents Division's Medical Director and the Division's Director. The committee is composed of physicians, a chiropractor, a physical therapist, and representatives from private insurance, self insurance, and the Workers Compensation Fund. In 2000, the committee recommended the Commission adopt the federal medical fee schedule with Utah specific rates. This fee schedule is reviewed on an annual basis and recommendations made for adoption with Utah specific rates.



# Information Technology Section

**William D. Gerow, Manager**

(801) 824-6561 [bgerow@utah.gov](mailto:bgerow@utah.gov)

**MISSION:** To provide the technology to the Labor Commission which will enable employees to better serve the public.



## OVERVIEW

Our Information Technology (IT) Section employees are part of the State's Department of Technology Services who are assigned to the Labor Commission. They manage all computers, printers, scanners and other electronic peripherals at the Labor Commission. In addition, we have a team of programmers working to create and enhance all computer applications in order to help Labor Commission employees be more productive and make the customer experience less cumbersome.

## INTERNAL EFFICIENTIES

Over the past ten years the IT Section has been putting together a series of case management computer applications for each division and section of the Labor Commission to track the myriad of cases, investigations, inspections, hearings and court proceedings. These case management applications have proven useful for Labor Commission employees to manage cases more productively. Even though the case load of employees at the Commission has more than doubled, efficiencies from these applications are partly the reason that the number of employees at the Labor Commission has not grown in the past ten years.



Most case management applications are now in place. They are frequently being reviewed to identify areas which can be modified, resulting in more productive gains. It is now time for the Labor Commission to look to electronic means for improving the customer interface with the Commission.

## HIGHLIGHTS

- ❖ In FY07, IT implemented a Web application for the Boiler and Elevator Safety Division which not only allows inspectors to submit results of the inspection right from the site, but also reduces by weeks the total time between inspection, payment, and closing of the transaction.
- ❖ In the coming year, IT will be implementing credit card payments over the web and several electronic filing of forms measures to reduce the amount of time incurred by our customers, as well as reducing the amount of paper received by the Commission.



# Legal Unit

**Alan L. Hennebold, Deputy Commissioner  
and Legal Counsel**



(801) 530-6937 [ahennebold@utah.gov](mailto:ahennebold@utah.gov)

**MISSION:** In cooperation with the Utah Attorney General, to provide representation and counsel to the Utah Labor Commission.

## OVERVIEW

The Legal Unit provides legal support in all aspects of Labor Commission activity, including:

- ❖ Final agency review of decisions issued by the Commission's administrative law judges;
- ❖ Appellate proceedings before the Utah Court of Appeals and Utah Supreme Court
- ❖ Legislation
- ❖ Rule-making
- ❖ Internal policies and procedures
- ❖ Public information

**Motions for review:** As noted elsewhere in this report, the Labor Commission enforces Utah's laws regarding workers' compensation, employment and housing discrimination, and workplace safety. Disputes that arise from any of these laws are decided by the Commission's administrative law judges, commonly referred to as "ALJs". Any party dissatisfied with an ALJ's decision can request review by either the Commissioner or the Commission's Appeals Board. The Legal Unit assists the Commissioner and the Appeals Board in reviewing such cases.



**Appellate litigation:** Decisions of the Commissioner and Appeals Board are subject to review by the Utah Court of Appeals and Utah Supreme Court. The Legal Unit represents the Labor Commission in proceedings before these courts.

**Legislative issues:** The Legal Unit works with Commission staff, stakeholders, the Office of Legislative Research & General Counsel, and individual legislators in evaluating and drafting legislative proposals. The

Legal Unit also participates in the formal legislative process by providing information to legislators and testifying at committee hearings.

**Rule-making:** In those areas where the Legislature has authorized the Commission to promulgate administrative rules, the Legal Unit assists the Commission and its Divisions in developing, drafting and enacting these rules.

**Internal policies and procedures:** As directed by the Commissioner, the Legal Unit participates in internal management functions, such as strategic planning, performance measurement, and personnel issues.

**Public information:** The Legal Unit participates in seminars and other opportunities to provide information about the Commission. The Legal Unit also answers public inquiries regarding any aspect of Commission activity.

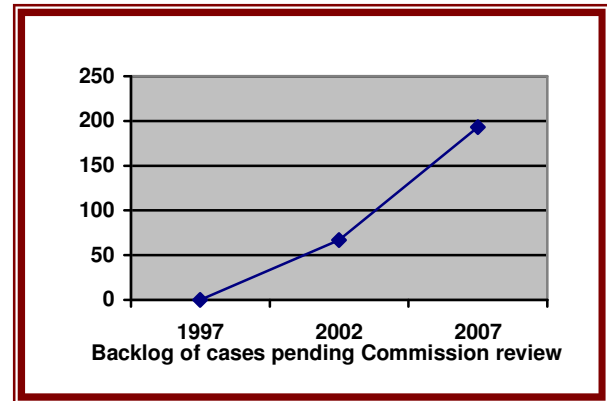




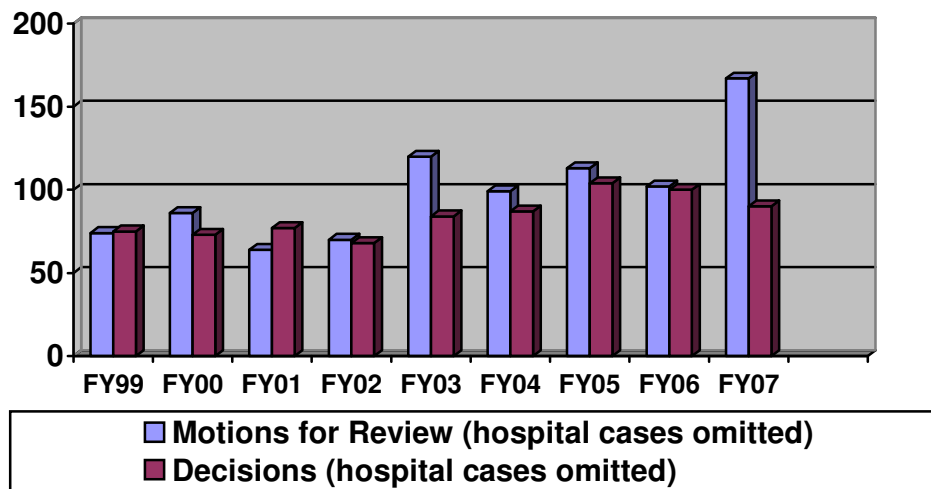
## INTERNAL EFFICIENCIES

Among the Legal Unit's duties, managing the process for Commission's review of ALJs' decisions is the most challenging. The Commission's decisions must be correct **and** timely, but this has become more and more difficult, due to the increased number of cases and the complexity of those cases.

- ❖ In the ten years between 1997 and 2007, the number of requests for Commission review increased 223%, from 75 appeals to 167 appeals.
- ❖ Despite an actual decrease in staff time available for this function, the Commission has managed to increase its productivity by 145%. Even with increased productivity, the Commission's backlog of cases has grown. In 1997, there was no backlog. In 2002, the backlog reached 64 cases. Now, the backlog is 193 cases, with an average age of 304 days. The oldest cases pending decision are two years old.



The Commission has responded to this increased case load by transferring some of the Legal Unit's legal responsibilities to the Utah Attorney General's staff and shifting many management functions to other Commission staff. But these steps will not allow the Commission to eliminate its backlog of pending cases any time soon.



## FY07 HIGHLIGHTS

- ❖ **Review of Commission decisions by Utah's Appellate Courts:** During fiscal years 2006 and 2007, Utah's appellate courts reviewed the Commission's decisions in 22 separate appeals and affirmed the Commission in 19 of those cases.
- ❖ The Legal Unit participated with the Commission's Antidiscrimination & Labor Division and the Employment Law Section of the Utah State Bar to provide **summer fellowships to two law students**—one from the University of Utah and one from Brigham Young University.
- ❖ The 2007 Utah Legislature enacted **Senate Bill 109**, proposed by the Commission and sponsored by Senator Ed Mayne, to protect injured workers' disability benefits from predatory "factoring" practices.



# Utah Occupational Safety and Health

Louis M. Silva. Administrator



(801) 530-6901 [lsilva@utah.gov](mailto:lsilva@utah.gov)

**MISSION:** Achieving compliance and providing assistance with safety and health for Utah workplaces.

**VISION:** "Working together we can make the beautiful State of Utah a safer place to work, elevating our safety and health culture to a higher level of excellence".

## OVERVIEW

Utah's "state plan" occupational safety and health program has been operational since 1974 and received final approval from the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) in 1985. Utah's program is managed by the Utah Occupational Safety and Health (UOSH) Division of the Utah Labor Commission.

The Utah legislature enacted Title 34A of Utah Code as the Utah Labor Commission Act. Chapter 6 of the Labor Commission Act is the Utah Occupational Safety and Health Act. The intent of this Act is to "preserve human resources by providing for the safety and health of workers; and to provide a coordinated state plan to implement, establish, and enforce occupational safety and health standards as effective as the standards under the Williams-Steiger Occupational Safety and Health Act of 1970, 29 U.S.C. Section 651 et seq."

UOSH is organized into a compliance (enforcement) section, a consultation section (assistance and training), an operation administration section and a data reporting and statistics section. A

whistleblower 11c specialist reports to the compliance manager.

UOSH's compliance program mirrors the federal program. This makes compliance easier for Utah employers who also operate in federal enforcement states.

Utah's private sector consultation program provides voluntary consultative services to employers at no cost. Priority is given to small employers (<250 employees/<500 corporate wide) in high hazard industries. All consultation services are provided at the discretion of the employer. These services include comprehensive safety and health surveys, program assistance training; and education and technical assistance.

The Data Reporting and Statistics section provides injury and illness data to the compliance and consultation programs as well as managing surveys for the U.S. Bureau of Labor Statistics and the OSHA Data Initiative.





## ENFORCEMENT

- ❖ Code of Federal Regulations 29CFR1910 (General Industry)
- ❖ Code of Federal Regulations 29CFR1926 (Construction)
- ❖ Utah Occupational Safety and Health Act Title 34A, Chapter 6
- ❖ Utah Administrative Code – UOSH Rules R614

## INTERNAL EFFICIENCIES

Customer service has been improved with the phones centralized and the assignment of cell phones to Compliance Officers has increased their effectiveness.

## FY07 HIGHLIGHTS

### Statistics

- ❖ Completed 1,500 Inspections/Surveys/Interventions
- ❖ 1,702 Citations/Hazards Identified
- ❖ Levied \$1,100,000 in penalties which go to the General Fund

### Compliance

The Voluntary Protection Programs (VPP) promote effective worksite-based safety and health. In the VPP, management, labor, and OSHA establish cooperative relationships at workplaces that have implemented a comprehensive safety and health management system. Approval into VPP is OSHA's official recognition of the outstanding efforts of employers and employees who have achieved exemplary occupational safety and health. Through State FY07, Utah OSHA Compliance has recognized the five companies shown below for VPP status, listed with their total number of employees.

❖ Western Zirconium	400
❖ Frito Lay	555
❖ GE Healthcare	600
❖ Morton Salt	143
❖ ATK Launch Systems	190
<b>TOTAL VPP EMPLOYEES</b>	<b>1,888</b>



### Consultation

OSHA's Safety and Health Achievement Recognition Program (SHARP) recognizes small employers who operate an exemplary safety and health management system. Through State FY 07, Utah OSHA Consultation has recognized the seven companies shown below, with their total number of employees in the SHARP Program.

❖ Superior Air Handling	135
❖ Jennmar Corporation	53
❖ Wencor Group	241
❖ Futura Industries	250
❖ Fetzer Inc.	183
❖ Sweet Candy Company	158
❖ Cookie Tree Bakeries	135
<b>TOTAL SHARP EMPLOYEES</b>	<b>1,155</b>



# Awards, Honors and Affiliations

## Utah Antidiscrimination and Labor Division -

The Division was awarded the Annual Public Service Commendation by the U.S. Equal Employment Opportunity Commission for its “outstanding achievement in the enforcement of civil rights laws.” The UALD was only one of three Fair Employment Practices Agencies (FEPA’s) in the country to receive the award. There are 97 FEPA’s nationwide.

Three members of the Division completed the U.S. Fair Housing Academy’s training program becoming fully certified housing discrimination investigators:

- ❖ **Harold Stephens**
- ❖ **Stephanie Carrillo**
- ❖ **Joan Carter**



## Boiler and Elevator Safety -

- ❖ **Rick Sturm** - Chief Boiler Inspector, Division of Boiler and Elevator Safety:  
Utah Representative - National Board of Boiler and Pressure Vessel Inspectors

## Industrial Accidents -

- ❖ **Joyce Sewell** - Director, Industrial Accidents Division:  
Winner of Dr. G. Homer Durham Distinguished Service Award for an Appointed Official by the American Society for Public Administration (ASPA) -Utah Chapter.

## Legal Unit –

The Legal Unit participated with the Commission’s Antidiscrimination & Labor Division and the Employment Law Section of the Utah State Bar to provide summer fellowships to two law students from the from the University of Utah and Brigham Young University.

- ❖ Kristen Kiburtz , University of Utah
- ❖ Aaron Harris, Brigham Young University.

## UOSH Division –

### VPP Awards

The Voluntary Protection Programs (VPP) promote effective worksite-based safety and health. In the VPP, management, labor, and OSHA establish cooperative relationships at workplaces that have implemented a comprehensive safety and health management system.



Approval into VPP is OSHA's official recognition of the outstanding efforts of employers and employees who have achieved exemplary occupational safety and health.

The following achieved VPP status in FY07:

**Western Zirconium, Frito Lay, GE Healthcare, Morton Salt, and ATK Launch Systems**

### **SHARP Awards**

OSHA's Safety and Health Achievement Recognition Program (SHARP) recognizes small employers who operate an exemplary safety and health management system.

Seven SHARP companies were recognized in State FY07:



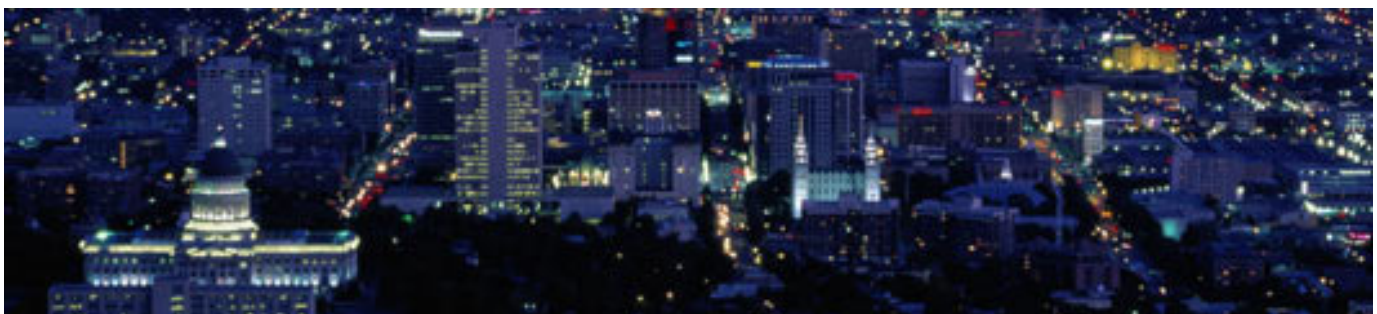
**Superior Air Handling, Jennmar Corporation, Wencor Group, Futura Industries, Fetzer Inc., Sweet Candy Company, and Cookie Tree Bakeries**

### **2007 Utah Labor Commission Safety Award**

Each year, Utah OSHA presents an award to a Utah company in recognition of achieving outstanding results with respect to its workplace safety program.

This year's award is presented to **Ellsworth Paulsen Construction.**

In 2006, Ellsworth Paulsen Construction's safety program affected over 2,000 people on various job sites. The company has consistently dedicated its efforts to continuous improvement in safety performance.





# Utah Labor Commission

## Phone Directory and Services Information

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**160 East 300 South, 3<sup>rd</sup> Floor  
PO Box 146600  
Salt Lake City, Utah 84114-6600  
(801) 530-6800**

**[www.laborcommission.utah.gov](http://www.laborcommission.utah.gov)**

- Utah Labor Commission main number..... (801) 530-6800/ 6801
- Toll free ..... (800) 530-5090
  - TDD Toll free..... (800) 530-7685
- ◆ **Administrative Services** ..... (801) 530-6880
- Customer Relations ..... (801) 530-6918
- ◆ **Antidiscrimination & Labor** ..... (801) 530-6801  
(Employment & Housing Discrimination, Labor & Wage Claims)
- Toll free ..... (800) 222-1238
- ◆ **Adjudication** ..... (801) 530-6800
- ◆ **Boiler & Elevator Safety** ..... (801) 530-6850
- Boiler Inspectors..... (801) 530-6850
  - Elevator Inspectors..... (801) 530-6850
  - Miner Certification..... (435) 636-1465
- ◆ **Industrial Accidents & Worker's Compensation** ..... (801) 530-6800
- ◆ **Utah Occupational & Health – Utah OSHA main number** ..... (801) 530-6901
- To report accidents and fatalities ..... (801) 530-6901
  - UOSH Statistics & BLS surveys..... (801) 530-6823
  - Consultation Services ..... (801) 530-6855
  - Workplace Safety – Grants and Resources ..... (801) 530-6918





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